

STATE OF MICHIGAN
COURT OF APPEALS

DAVID ERICKSON,

Plaintiff-Appellant,

v

CONNIE MARIE EVANS,

Defendant-Appellee,

and

CONTINENTAL TIRE NORTH AMERICA,
INC., and LADONNA EVANS,

Defendants.

UNPUBLISHED
February 20, 2007

No. 272328
Kent Circuit Court
LC No. 05-006424-NI

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

MEMORANDUM.

Plaintiff appeals as of right an order granting summary disposition to defendant Connie Marie Evans (hereafter “defendant”) in this tort action arising from a motor vehicle related accident. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Plaintiff argues that the trial court erred in granting summary disposition to defendant with regard to his claim that he suffered a serious impairment of body function based on its conclusion that his injuries did not affect his general ability to lead his normal life. We disagree.

We review a grant of summary disposition under MCR 2.116(C)(10) de novo. *Greene v AP Products, Ltd*, 475 Mich 502, 507; 717 NW2d 855 (2006). The documentary evidence submitted by the parties is viewed in the light most favorable to the party opposing the motion. *Id.* Summary disposition under MCR 2.116(C)(10) is appropriate only if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Id.*

Plaintiff relies largely on the extent of his injuries and his inability to work for a three-month period as evidence that his injuries affected his general ability to lead his normal life. However, in *Kreiner v Fischer*, 471 Mich 109, 135-136; 683 NW2d 611 (2004), our Supreme Court concluded that a plaintiff had not suffered an affect on his general ability to lead his normal life despite having suffered injuries requiring surgery and not having worked for eight weeks. The Court expressed that these “temporary limitations” did not affect the plaintiff’s

general ability to lead his normal life. *Id.* at 136. The Court also indicated that “[w]hile an injury need not be permanent, it must be of sufficient duration to affect the course of a plaintiff’s life.” *Id.* at 135. Plaintiff’s hospitalization and other medical treatment and his essentially three-month absence from work are closely analogous to the limitations on a plaintiff in *Kreiner, supra*, and were not of sufficient duration to affect his general ability to lead his normal life.

Beyond the extent of his injuries and temporary inability to work, plaintiff relies on statements in his answer to an interrogatory and in his deposition expressing that he has been limited in riding motorcycles, walking, and doing household chores. But none of these assertions are supported by evidence of medically imposed restrictions on plaintiff’s activities. Thus, we must effectively disregard those claims because “[s]elf-imposed restrictions, as opposed to physician-imposed restrictions, based on real or perceived pain” do not establish the extent of residual impairment for purposes of evaluating whether a plaintiff’s general ability to conduct the course of his or her life has been affected. *Kreiner, supra* at 133 n 17.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio